

Don R. Knowles, Director
Office of Protected Resources
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Knowles,

The Office of Pesticide Programs (OPP), U. S. Environmental Protection Agency (EPA), respectfully requests the initiation of Endangered Species Act (ESA) section 7(a)(2) consultation. This consultation request addresses 26 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead that have been listed as Federally endangered or threatened and two pesticides registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for uses within the range of the listed ESUs. The pesticides subject to this request contain the active ingredients molinate and thiobencarb, which are registered for use on rice in California, within the range of three salmon and steelhead ESUs. Our long term intent is to make effects determinations and consult, as appropriate, relative to all listed species and locations. However, as per agreement with the National Marine Fisheries Service, this request is limited to Pacific salmon and steelhead for which NMFS has responsibility (see enclosure).

The sole registered use of molinate and thiobencarb within the range of salmon and steelhead is for rice in California. These two herbicides are used to control a variety of pest plants, but watergrass is the primary target plant. At one time, the use of these rice herbicides resulted in fish kills in the Colusa Basin agricultural drain. As a result, California's Department of Pesticide Regulation (DPR) instituted a variety of measures, primarily the holding of these herbicides on fields or closed water systems until they are largely degraded, to avert these fish losses. Additionally, the Central Valley Water Quality Control Board set performance goals for amounts not to be exceeded in water both in the agricultural drains and in drinking water source. As a result of these measures, fish kills have been avoided. EPA seeks the written concurrence of the National Marine Fisheries Service, in accordance with 50 C.F.R. §402.13, with EPA's determination that the use of these rice herbicides, in accordance with Federal labels and the California regulations for their use, is not likely to adversely affect the Sacramento River winter-

run chinook ESU, the Central Valley spring-run chinook salmon ESU, and the California Central Valley steelhead ESU.¹

The three salmon and steelhead ESUs occur in the rivers and tributaries of California's Central Valley, especially in the Sacramento River basin. The primary threats for these ESUs have been the continued development of California for a variety of human-related activities, including residential and commercial development, agriculture, and forestry, along with genetic swamping by unrelated hatchery stocks. These activities have resulted in barriers to up stream and down stream migration, loss of available water, reduced water quality, physical modification of aquatic and riparian habitat. Excessive harvesting may also have played a role in their decline. Listing of these salmon and steelhead ESUs has sensitized the public to the need to provide protection. As a result, California has included them in their "Interim Measures" county bulletins for protecting endangered and threatened species, thus providing protection from pesticide use.

OPP is currently working towards a final endangered species program. We are developing county-specific bulletins to address pesticide use and endangered and threatened species. It is through such county bulletins, along with pesticide label references to these bulletins, that OPP intends as its primary means of implementing its protections for salmon and steelhead and other listed species.

We look forward to working with NMFS to protect and help recover listed species. If you have any questions, please feel free to call me at (703) 305-5239, or your staff may contact my Senior Scientist, Dr. Larry Turner at (703) 305-5007.

Enclosure

Sincerely,

|Signed|

Arthur-Jean B. Williams, Chief
Environmental Field Branch (7506C)

cc: Craig Johnson

¹ See Memorandum from Larry Turner, Environmental Field Branch, Ph.D., OPP, EPA, to Arthur-Jean B. Williams, Chief, Environmental Field Branch, OPP, EPA, July 23, 2002 (attached).



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

DEC 3 2001

Robert E. Fabricant
General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Bob:

This letter follows up on our discussion of October 17 with your staff regarding the effects of EPA-registered pesticides on federally-listed species under the Endangered Species Act. We understand that, in connection with two ongoing lawsuits, EPA has been exploring with staff from the National Marine Fisheries Service and the Fish and Wildlife Service the possibility of EPA initiating consultation with the Services on specific uses of certain pesticides and their effects on the listed species identified in the litigation, including Pacific salmon and steelhead. As we discussed, MFS finds this approach acceptable, and looks forward to working further with EPA and FWS in our comprehensive national effort to address the effects of pesticides on listed species.

Sincerely,

Craig R. O'Connor

